

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR SKAGIT COUNTY

STANDING ORDER – with Exhibits A & B

Eviction Resolution Pilot Program (ERPP)¹

Effective September 7, 2021 through June 30, 2023².

1. **FINDINGS.** It is recognized that:

- A. Since late February 2020, the COVID-19 public health and economic crisis have combined to cause great health, social and economic harm to the people of the state of Washington, rendering many thousands unable to meet basic living expenses, including but not limited to rent expenses.
- B. Responding to the public health and economic emergency, on March 18, 2020, Governor Inslee issued Proclamation No. 20-19 imposing a moratorium on most residential evictions in Washington State. This Proclamation was renewed and the eviction moratorium was extended on multiple occasions. The most recent extension expired June 30, 2021. Governor Inslee issued Bridge Proclamation 21-09 on June 29, 2021.

¹ ERP changed to ERPP given language in ch. 115, Laws of 2021, Sec. 7.

² Per ch. 115, Laws of 2021, Sec. 7(9).

- C. Anticipating significant numbers of unlawful detainer filings upon expiration of the Governor's eviction moratorium, the Superior Court Judges' Association asked its Unlawful Detainer Work Group to develop a means of diverting nonpayment of rent cases away from the courts and into a collaborative resolution process that brings together landlords and their attorneys, tenants, legal aid and housing justice projects, administrators of state and local rent assistance programs, and trained eviction resolution specialists employed by community-based dispute resolution centers. The pre-5160 SCJA Pilot Eviction Resolution Programs (ERPs) and related operating protocols were established in King, Snohomish, Pierce, Thurston, Clark, and Spokane Counties, and conciliation/mediation services commenced in November 2020.
- D. Current estimates indicate more than 220,000 individual households are currently in rent arrears and face the prospect of eviction after the current moratorium expires.
- E. On April 22, 2021, Governor Inslee signed Engrossed Second Substitute Senate Bill 5160 into law (ch.115, Laws of 2021, sec. 4(1)) which took effect that day. This legislation substantially changes the law governing landlord-tenant relations, generally prevents eviction for failure to pay unpaid rents accrued during the Governor's eviction moratorium, changes unlawful detainer practice and procedure, provides statewide authorization and support for court-established Eviction Resolution Pilot Programs (ERPPs) beyond the initial six pilot programs established pre-5160 by the SCJA, and establishes a right to counsel for indigent tenants in unlawful detainer proceedings.
- F. The final FY 2021-23 operating budget enacted by the Washington State Legislature provides funding to underwrite ERPP operations, implement the right to counsel program for indigent tenants, and includes \$658,000,000 for

rent assistance payments to tenants and landlords, offering landlords and tenants significantly expanded opportunities to resolve rent related disputes that might otherwise lead to the filing of an unlawful detainer action following expiration of the eviction moratorium.

- G. Court operations have been substantially curtailed since April 2020 due to the COVID-19 pandemic. Mandatory orders issued by the Washington Supreme Court and the need to comply with essential public health and safety protocols have caused this court to suspend a range of operations, delay criminal and civil trials, and establish other procedures that have had profound negative impact on this court's ability to provide timely consideration and render judgments in cases in virtually all dockets. This has resulted in a continuing substantial backlog of civil, criminal, juvenile, and child welfare matters. The COVID-19 challenges have been compounded by the anticipated new demands on this court resulting from *State v. Blake*, 197 Wash.2d 170, 481 P.3d 521 (2021).
- H. Given the administrative backlog this court is facing, the anticipated deluge of unlawful detainer filings following expiration of the Bridge Proclamation after September 30, 2021, and implementation of OCLA's right to counsel for indigent tenants in unlawful detainer actions (aka proceedings) presents a continuing threat to the ability of this court to timely hear and fairly decide such cases consistent with statutory deadlines, due process and mandated procedures.
- I. State and local rent-assistance programs offer the opportunity for immediate assistance in addressing rent arrearages (or portions thereof) and avoiding the need to seek recourse through the unlawful detainer process. Even in unlawful detainer cases that are filed, it is in this court's interest in managing its docket, facilitating just outcomes, and wisely utilizing scarce judicial

resources and capacity to divert cases away from the contested unlawful detainer process where there is a reasonable likelihood of a just resolution.

- J. Sec. 7(2) of ch. 115, Laws of 2021 requires that, where an ERPP is established under authority of a standing judicial order, landlords use that program before filing an unlawful detainer action. Section 7(3) requires that the landlord provide an ERPP-approved notice to the tenant of the eviction resolution program prior to filing an unlawful detainer action. The Court adopts and requires the Landlord to use the form Notice developed by AOC in collaboration with the Office of the Attorney General and attached hereto as *Exhibit A*. The Landlord shall serve the form Notice in English and Spanish, and in any other language that the Landlord reasonably knows the tenant to prefer if a copy of the notice is available in that language on the Washington State Office of the Attorney General's website, which shall include the local contact information that is on the version in the attached *Exhibit A*.
- K. Governor Inslee issued Bridge Proclamation 21-09 on June 29, 2021, which is effective from July 1 - September 30, 2021. The Bridge Proclamation is not an extension of the Governor's Eviction Moratorium Proclamation (20-19). All evictions typically allowed under the law, with the exception of non-payment of rent, may resume July 1st, subject to the requirements of Sec. 8 of ch. 115, Laws of 2021.
- L. As required by the Bridge Proclamation: (1) The local rental assistance program has submitted an attestation to the appropriate entity/entities affirming that it is operational in this county and (2) the local dispute resolution center will submit an attestation to the appropriate entity/entities affirming ERPP is operational in this county.

- M. The form notice available through [SkagitCounty.net/SuperiorCourt](https://www.skagitcounty.net/SuperiorCourt) and attached as *Exhibit A* suffices as the ERPP Notice required by the Bridge Proclamation that the landlord must give to the tenant, providing an opportunity to participate in an operational rental assistance program and an operational ERPP. The necessity of an effective and meaningful ERPP is key to successful diversion of cases from the court. The court recognizes the local Housing Justice Project (HJP) operated by Skagit Legal Aid (SLA) and the local DRC do not have unlimited human and other resources to handle the anticipated massive influx of nonpayment of rent cases requiring ERPP. The court also recognizes that an effective ERPP requires the local DRC to implement processes to ensure necessary to schedule and hold the meet and confer in the timeframes detailed in this section;
- N. As required by Sec. 8 of ch. 115, Laws of 2021 and as interpreted by the Attorney General of Washington, indigent tenants in unlawful detainer actions (aka proceedings) have a right to counsel notwithstanding that OCLA's full implementation of the right-to-counsel plan has not yet occurred. OCLA has entered into contracts with **SLA and the Northwest Justice Project (NJP)** to recruit, train, and make available attorneys to accept appointments to represent indigent tenants against whom unlawful detainer proceedings have been commenced in accordance with RCW 4.28.020 and the statutes referenced above. The court recognizes that SLA and NJP require reasonable time for recruitment and training.
- O. Accordingly, unlawful detainer actions (aka proceedings) involving indigent tenants who have requested counsel will be delayed until OCLA certifies that the conditions precedent to operationalizing the right-to-counsel plan have been met and such certification has been transmitted to this court. Until such time, the court shall determine whether the tenant is indigent and upon finding that the tenant is indigent, continue the case to allow the tenant adequate

opportunity to access legal assistance through a qualified legal services provider. The matter may proceed only at such time as full legal services are available to the tenant through a qualified legal services provider.

P. It is understood that the Volunteers of America Dispute Resolution Center (DRC), Skagit Legal Aid (SLA), and Northwest Justice Project (NJP) are prepared to assist tenants facing the threat of eviction and help tenants resolve that threat through non-judicial processes including the Eviction Resolution Program (ERPP).

Q. This court has determined it appropriate to issue this standing order to establish an eviction resolution pilot program to divert unlawful detainer cases from the docket and facilitate both pre-filing and post-filing resolution of cases where the principle issue in context is non-payment of rent. The court designates that **Judge Elizabeth Y. Neidzowski** will serve as the procedural point person(s) to work with relevant stakeholders on the implementation and ongoing administration of the ERPP and such designation has been provided to the Administrative Office of the Courts.

2. **ORDER**

A. **Landlord/Landlord Counsel's Obligations Regarding Eviction**

Resolution. Prior to serving and/or filing a summons and complaint for nonpayment of rent *post-moratoria* the landlord or landlord's counsel shall: **(i) *strictly comply with*** the notice, service, and certification requirements of Sec. 7(3), (4), and (5) of Chapter 115, Laws of 2021; **(ii)** meet and confer with the local DRC and the tenant and tenant's attorney to facilitate the resolution of the issue of nonpayment of rent; and **(iii)** file the ERPP DRC Certification Form at the time of filing a summons and complaint with the court.

- B. **Tenant's Obligations Regarding Eviction Resolution.** Tenants must respond to landlords regarding establishing reasonable repayment plans and participate in eviction resolution programs per the timelines established in E2SSB 5160. (See Governor's Bridge Proclamation – Page 4.)
- C. **DRC Certification of ERPP.** The DRC shall employ the Certificate of ERPP participation. In addition, the DRC may include language in the certificate of ERPP participation prior to its issuance to a landlord that details: whether rent assistance was available at the time of the engagement (*for example*, did the tenant qualify for rent assistance and was rent assistance available in the relevant locality at this time), did the tenant apply for rent assistance, the date the DRC received the notice of termination of tenancy due to unpaid rent and the date on the notice, whether the tenant participated in ERPP efforts, whether the tenant had counsel during ERPP, whether the DRC was able to conduct conciliation efforts, and any other relevant information to help the court determine whether the matter is ripe for adjudication.
- D. **Eviction Resolution Process.**
- a. **Participation.** The landlord shall participate in the full process provided by the DRC for nonpayment of rent cases if the tenant indicates to the DRC a desire to engage in the ERPP as provided for in this section.
 - b. **Notice to Tenants.** The DRC shall, upon request or returned receipt of the form Notice available on the Washington State Office of the Attorney General's website, immediately provide to eligible tenants a written Notice of Legal Services available and Tenant Rights under the applicable laws as set forth in *Exhibit B*.

c. DRC Scheduling.

- i. The local DRC shall make every effort to schedule the meet and confer for the landlord and the tenant (and their respective counsel) within 28 days of receipt of the ERPP Notice;
- ii. The parties may agree to extend the timeframe (as detailed in this section) for scheduling the meet and confer;
- iii. The local DRC shall implement necessary processes to schedule and hold the meet and confer in the timeframes detailed in this section;
- iv. Should a tenant (and their respective counsel) not engage within 28 days after receipt of the ERPP Notice, DRC Certification that the landlord has satisfied the requirements of Sec. 7 of Chapter 115, Laws of 2021 shall issue;

d. Reasonable Repayment Plans. Agreements involving rent that accrued between March 1, 2020, and six months after the expiration of the eviction moratorium or the end of the public health emergency, whichever is later, may not include the following:

- i. Repayment schedule of the unpaid rent exceeding one-third of the monthly rental charges during the period of the accrued debt;
- ii. Requirement that the tenant make a payment before 30 days have passed from the date the plan is offered to the tenant;
- iii. Any late fees for the nonpayment of rent that accrued during this period, attorneys' fees, or any other fees and charges;
- iv. Any restrictions on payments by the tenant to the landlord from any source of income as defined in RCW 59.18.255(5) or from pledges by nonprofit organizations, churches, religious institutions, or governmental entities;
- v. Any provisions or conditions upon:

1. The tenant's waiver of any rights to a notice under RCW 59.12.030 or related provisions before a writ of restitution is issued;
2. A requirement that the tenant apply for governmental benefits or provide proof of receipt of governmental benefits; or
3. The tenant's compliance with the repayment agreement, payment of attorneys' fees, court costs, or other costs related to litigation if the tenant defaults on the rental agreement.

E. **DRC Reporting Obligations.** On a quarterly basis, the local DRC shall provide to the Court Administrator the ERPP data/information required by Sec. 7 (b)-(f) in a useable and readable format.

F. **Initial Hearing Procedures for Unlawful Detainer Cases.**

a. Upon implementation of the right to counsel plan for this court by OCLA pursuant to Secs. 8 and 9 of Chapter 115, Laws of 2021, the following provision will take effect: At the first hearing, the court will advise the tenant of their right to appointed counsel if indigent and inquire whether they wish to assert that right. If so, the court shall refer the tenant to the county-specific entity designated by the Office of Civil Legal Aid (OCLA) for eligibility screening and/or appointment of counsel (e.g. Eviction Defense Hotline or legal aid program) by sharing the name and contact number for said entity, unless counsel has previously been appointed for the tenant prior to filing of the case with the court. If a tenant is referred for appointment of counsel, the court will continue the initial hearing as appropriate to allow the litigant to receive assistance from assigned counsel within appropriate timeframes as allowed by law and/or court rule.

b. In non-payment of rent cases in which a DRC Certification was issued **after expiration of the Governor's eviction moratorium**: At the first hearing, the court shall determine: **(a)** whether the landlord has complied with the notice, service, participation, and certification filing requirements of Sec. 7 of Chapter 115, laws of 2021, and **(b)** whether the landlord and tenant met and conferred with the local DRC for purposes of resolving the issue of nonpayment of rent. Sanctions available for the landlord's noncompliance with notice, service, or certification filing requirements include but are not limited to: awarding attorney's fees and costs, granting a continuance, redirecting the parties back to the DRC for attempted resolution, and any other relief as allowed by law and/or court rule;

c. In non-payment of rent cases where a DRC Certification was issued along with an agreement between the parties, the court reserves its ability to enforce such agreements, including those that reached agreement on matters addressed by the rental agreement beyond nonpayment of rent.

G. **Supplemental Effect.** This order is supplemental to and does not supersede any statutory provision, any other standing order, or any local court rule regarding unlawful detainer procedure.

DATED this 2nd day of September, 2021.

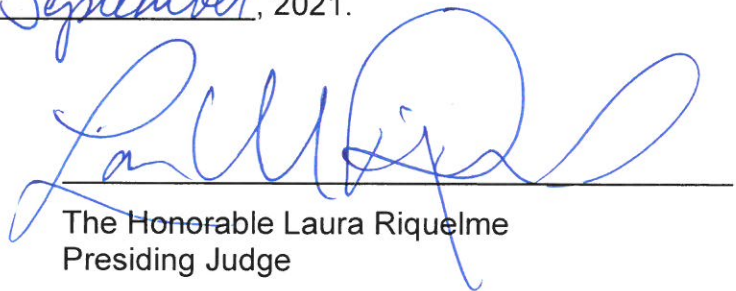

The Honorable Laura Riquelme
Presiding Judge

EXHIBIT A

ERPP Notice and Resource InformationUse this form *after* the eviction moratorium ends.

Important! Landlords: Fill out page 1 completely and correctly with all the information that you know. Your information and your attorney's information, if you have one, must be included. At the time of service or mailing of the pay or vacate notice to the tenant, you must also send/serve copies of these notices to the local dispute resolution center serving the area where the property is located (see page 2). You should retain proof of service.



Behind on rent? Here is a chance to resolve the dispute with your landlord.

Superior Court Eviction Resolution Pilot Program (ERPP)

Tenants: To participate see below and respond by (date): _____!

(14 days after this notice is given to tenant)

Important! Tenants: Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court (eviction).

To:

Tenant Name:

Property Address:

Tenant's Phone:

Tenant's Email:

From:

Landlord's Name:

Landlord's Service Address:

Landlord's Phone:

Landlord's Email:

Landlord's Lawyer (if any) Name:

Lawyer's Address:

Lawyer's Phone:

Lawyer's Email:



Your landlord is asking you to take part in the Eviction Resolution Pilot Program. Do not wait. You can get help.

What is the Eviction Resolution Program (ERPP)?

Your county's Superior Court uses this program. ERPP requires landlords to try to reach agreements with tenants about unpaid rent before they can ask for eviction in court. You may be eligible for rent assistance and legal help through the ERPP.

If you participate in the ERPP, your landlord must work with you and a specialist from your local **Dispute Resolution Center (DRC)**. If that solves the problem, great! If not, the DRC will offer free mediation. Mediation is voluntary – it only happens if both sides agree to do it.

You have a right to negotiate a **payment plan** that works for you.

Why should I participate?

If you get this notice and do **not** respond or try to reach an agreement, your landlord may file for eviction in court. You can get help from a free lawyer if you are not sure what to do. (See page 2.)





Mandatory ERPP Notice and Resource Information
(After Moratorium)

Revised 06/15/2021

- **Rent assistance**
- **Free mediation**
- **Free legal help**

What is mediation? It is when a trained person (a mediator) helps you solve a problem or reach an agreement with someone else.
You can ask for mediation at your local **Dispute Resolution Center**. Mediators are impartial and help all participants reach resolution.

Get help now! Contact these free resources in your county.

 Rent Assistance	Community Action of Skagit County	Any Skagit County Resident - By Phone: 360-416-7588 Monday, 8:30am-12:30pm Online: Add your name to an appointment waitlist: communityactionskagit.org/eviction-prevention/
	Volunteers of America	Any Skagit County Resident - By Phone: Call 211
	Skagit County Online Application	Any Skagit County Resident - Online: https://www.skagitcounty.net/Departments/HumanServices/eligibilitymain.htm
	CCS Farmworker Center	Indigenous and Latino Farmworkers - By Phone: (360) 424-8655, Monday – Friday 8:30am – 4:30pm
	Housing Authority of Skagit County	Section 8 Voucher Holders & Housing Authority Tenants - By Phone (English): 360-428-1959 ext. 202 By Phone (Spanish): 360-428-1959 ext. 200; Monday-Friday, 8:00am-4:30pm
	Northwest Youth Services	Young Adults Ages 18-24 - By Phone: 360-336-1988
 Dispute Resolution Centers	Skagit	By Phone: (425) 339-1335 ext. 3, By Email: earlyresolution@voaww.org
	Statewide Eviction Defense Screening Line and Local Housing Justice Projects (HJP)	
 Lawyers	Statewide Eviction Defense Screening	By Phone: 855-657-8387 or Apply Online at https://nwjustice.org/apply-online
	Skagit Legal Aid HJP	By Phone: (360)230-8100, By Email: HJP@skagitvlp.org Apply Online at https://nwjustice.org/apply-online
	Free interpreter services are available at all these programs The Washington State Office of the Attorney General has this notice in multiple languages on its website: www.atg.wa.gov/landlord-tenant . You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at www.washingtonlawhelp.org and www.courts.wa.gov .	

I want to take part in the Eviction Resolution Pilot Program. What do I do now?

You can start the process by doing one of these things:

- Contact the Dispute Resolution Center in your county.
- Fill out and return this form to your landlord at the address on page 1. Keep a copy.

You can also get a lawyer, whether or not you participate in the ERPP.

<input type="checkbox"/> Yes, I want help resolving my unpaid rent. Contact me at:	
Tenant's Name:	
Tenant's Address:	
Tenant's Phone:	Tenant's Email:

EXHIBIT B

Notice of Right to Consult with Counsel Prior to and During Eviction Resolution Process

You have the right to consult with counsel prior to engaging in the Eviction Resolution Process (ERP). Subject to the availability of counsel, you also have the right to have an attorney represent you during the ERP. If you believe you are a qualifying low-income renter:

please contact the Eviction Defense Screening Line
By phone at 855-657-8387
Apply Online at [https:// nwjustice.org/apply-online](https://nwjustice.org/apply-online)

For additional resources, please call the CLEAR Advice and Referral line at **1-888-201-1014** weekdays between 9:15 a.m. – 12:15 p.m. or the CLEAR Senior line at **1-888-381-7111** for seniors age 60 and up.

You will be screened for eligibility: legal representation is not guaranteed. Any person may qualify who:

(a) Receives one of the following types of public assistance:

- Temporary assistance for needy families,
- aged, blind, or disabled assistance benefits,
- medical care services under RCW 74.09.035,
- pregnant women assistance benefits,
- poverty-related veterans' benefits,
- food stamps or food stamp benefits transferred electronically,
- refugee resettlement benefits,
- medicaid, or
- supplemental security income;

or

(b) Receives an annual income, after taxes, of 200 percent or less of the current federally established poverty level.

If you are unable to contact CLEAR, you may contact the **Housing Justice Project** operated by **Skagit Legal Aid**. You can reach the local Housing Justice Project at **(360) 230-8100**.

You may also visit **WashingtonLawHelp.org** for up to date information on landlord/tenant law.

If ERP is not successful and an unlawful detainer action is filed against you, state law provides you the right to legal representation and the court may be able to appoint a lawyer to represent you without cost to you if you are a qualifying low-income renter.

State law also provides you the right to receive interpreter services at court.